



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145b)
805 Frontage Road
Suite 200C
Kenai, Alaska 99611-7755

PUBLIC NOTICE DATE: April 20, 2006
EXPIRATION DATE: May 23, 2006
REFERENCE NUMBER: POA-1981-383-N
WATERWAY: Cook Inlet

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached plan.

APPLICANT: Chevron Environmental Management Company, 6001 Bollinger Canyon Road, Room K-2080, San Ramon, CA 94583-2324; (925) 842-9259

LOCATION: Mile 22.5 of the Kenai Spur Highway, Tract E1 of the Chevron Tracts Subdivision within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, T. 7 N., R. 12 W., Seward Meridian, near Nikiski, Alaska. Kenai Peninsula Borough parcel number 014-030-17; Latitude: 60.6891°N, Longitude: 151.3978°W; USGS Topo Map Kenai C-4 NW.

WORK: To conduct annual maintenance dredging of approximately 200 cubic yards of rocks from below the mean high water mark (MHW) of Cook Inlet and the placement of the rocks below the high tide line (HTL) of Cook Inlet. The rocks would range from 1-foot to 3.5-foot in diameter and would be placed on either end of the existing retaining wall.

The proposed maintenance dredging would be for a 10-year period.

PURPOSE: The purpose of the proposed project is to remove obstructions to commercial set-net fishermen, and to allow protection of the existing retaining wall.

ADDITIONAL INFORMATION: The site is at the location of a former refinery which operated from 1963 to 1991. The site of the former refinery is on top of the bluff adjacent to Cook Inlet. In July 1987, free-phase hydrocarbon seeps were discovered below the sites and a temporary capture system was installed to prevent the seeps from reaching Cook Inlet. In 1994, a ground water recovery system (GWRS) was installed at the foot of the bluff to capture the hydrocarbons.

On October 20, 2005, a Nationwide Permit (NWP) #3, Maintenance was verified for Chevron to place approximately 800 cubic yards of large, 3-foot diameter boulders into 0.0275 acres (50' long X 30' wide) below the high tide line (HTL) and mean high water mark (MHW) of Cook Inlet in order to protect the north and south ends of an existing sheet-pile wall from erosion.

On April 30, 2004, a Cease and Desist Order was issued to Chevron for the unauthorized discharge of bluff material below the HTL of Cook Inlet (file POA-1981-383-V). Further investigations revealed that in September, 2003, Chevron discharged approximately 70,000 cubic yards of fine grained sand material below the HTL and a similar amount was discharged in April, 2004. According to Chevron, the purpose for this work was to stabilize the bluff by conducting a 70' cutback from the top of the bluff at an angle of approximately 60° in order to protect the retaining wall from a landslide. The bluff material was then pushed onto the beach below the HTL of Cook Inlet. The violation was referred to the Environmental Protection Agency (EPA) and a settlement agreement between Chevron and EPA was reached on August 1, 2005.

In 2002, an individual permit review was conducted for the removal of large boulders from below the MHWM of Cook Inlet and the discharge of these boulders below the HTL in front of the Chevron retaining wall in order to protect the wall (file POA-2002-451-4). Because the project was found to be inconsistent with the State of Alaska's Coastal Zone Management Plan (CZMP), the file was closed on October 8, 2002.

In 1994, a Nationwide Permit #13, Bank Stabilization, was issued to Chevron for the construction of 680 linear feet of the open cell sheet-pile wall below the HTL of Cook Inlet to protect the GWRS (file POA-1981-383-D). In 1997 another NWP #13 was issued for the addition of 220 linear feet of the open cell sheet-pile wall below the HTL of Cook Inlet (file POA-1981-383-D).

On August 25, 1982, an individual permit (IP) was issued to Chevron U.S.A., Inc. for the removal of 9,600 cubic yards of sandy material from 2.4 acres below the MHWM of Cook Inlet and the disposal of the material 1,000 feet offshore into 1.15 acres for the purpose of allowing access of commercial vessels to an existing wharf (file POA-1981-383-2).

For project specific information, please contact the applicant's agent, Mr. Paul Dworjan, Project Manager, URS Corporation, 2700 Gambell Street, Suite 200, Anchorage, Alaska 99503; (907) 562-3366 or FAX (907) 562-1297,

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRs) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRs constitutes the extent of cultural resource investigations by the District Engineer at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be

lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area.

Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. *et seq* and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS).

We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: None.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need

for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Ms. Lisa Gibson at (907) 283-3519, if further information is desired concerning this notice.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States - Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments